

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAMON JAQUEZ,

Plaintiff,

-v.-

MONDELEZ GLOBAL LLC,

Defendant.

20 Civ. 8015 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court is in receipt of Defendant’s unopposed motion and supporting papers to set aside the certificate of default. (Dkt. #13-15). The Second Circuit has expressed a clear preference that disputes be resolved on the merits. *See, e.g., Marfia v. T.C. Ziraat Bankasi, N.Y. Branch*, 100 F.3d 243, 249 (2d Cir. 1996). “The court may set aside an entry of default for good cause.” Fed. R. Civ. P. 55(c). “Because Rule 55(c) does not define the term ‘good cause,’ [the Second Circuit] ha[s] established three criteria that must be assessed in order to decide whether to relieve a party from default or from a default judgment.” *Enron Oil Corp. v. Diakuhara*, 10 F.3d 90, 96 (2d Cir. 1993). These criteria are: “[i] the willfulness of default, [ii] the existence of any meritorious defenses, and [iii] prejudice to the non-defaulting party.” *Guggenheim Capital, LLC v. Birnbaum*, 722 F.3d 444, 455 (2d Cir. 2013).

After carefully reviewing Defendant’s submissions, the Court hereby GRANTS Defendant’s motion. The Court finds that Defendant’s default was not willful, that Defendant has raised potentially meritorious defenses, and that there is no prejudice to Plaintiff, especially given that Plaintiff does not oppose

this motion. Defendant shall answer or otherwise respond to Plaintiff's complaint on or by January 12, 2021.

SO ORDERED.

Dated: January 5, 2021
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

KATHERINE POLK FAILLA
United States District Judge